

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NATIONAL SPECIALTY PHARMACY,
LLC,

Plaintiff,

v.

SAMEER PADHYE,

Defendant.

Case No. [23-cv-04357-NW](#)

**ORDER DENYING DEFENDANT'S
MOTION FOR SANCTIONS AND
DISMISSING ACTION**

Re: ECF No. 133

This order follows the Court's oral rulings on August 19, 2025, denying Defendant's motion for sanctions and, pursuant to the Order to Show Cause, dismissing this case without prejudice as a sanction for failure to comply with Court orders. *See* ECF No. 126, 139.

I. BACKGROUND

A. The First 18 months of Litigation

This case began on August 24, 2023, when Plaintiff National Specialty Pharmacy, LLC ("NSP") filed its action against numerous Defendants alleging among other claims misappropriation of trade secrets. On January 4, 2024, NSP's first attorney, Cyrus Johnson, filed a motion to withdraw as counsel, asserting that there was a breakdown in communication "rendering effective representation interrupted." ECF No. 56. Four days later, the Court (Pitts, J.) issued an order staying the case for 30 days because NSP's business had closed, and Mr. Johnson had sought to withdraw as counsel. ECF No. 62. The Court: admonished the parties to timely file a case management statement that complies with the standing orders of the Court and complete and file the required ADR certification; ordered Mr. Johnson to file a status report by February 1, 2024, indicating whether NSP (an LLC that must be represented by counsel in court) had retained substitute counsel and confirming that he complied with all the rules of professional conduct and

1 local rules governing withdraw; and continued any ruling on the motion to withdraw until the next
 2 scheduled case management conference (“CMC”) on March 7, 2024. *Id.* On February 1, 2024,
 3 the Court granted NSP’s motion seeking the withdraw of Mr. Johnson, and the substitution of
 4 attorneys Nitoj Singh and Anthony Fusaro of the Dhillon Law Group. ECF Nos. 66, 68.

5 On February 22, 2024, the Court extended the deadline to file a joint case management
 6 statement and admonished the parties to meet and confer to file a single document that included a
 7 proposed case schedule and approach for ADR. ECF No. 75. The parties complied on February
 8 29, 2024 and the Court held the CMC as well as hearings on various motions. *See* ECF Nos. 79,
 9 80, 81. On May 16, 2024, the Court granted the motions to dismiss of several Defendants, leaving
 10 two Defendants in the case, Sameer Padhye and Benjamin Brown. *See* ECF No. 82.

11 The Court issued a case management order on July 2, 2024. ECF No. 90. The Court set
 12 the matter for trial on May 12, 2025. *Id.* Six months later NSP filed a motion to continue the trial,
 13 which was opposed, with both sides asserting that the other was engaged in unreasonable
 14 discovery practices. ECF Nos. 101, 105. On November 22, 2024, the Court issued an updated
 15 case management order that provided a complete schedule including a dispositive motion deadline
 16 of April 21, 2025, expert disclosures on July 11, 2025, and a jury trial beginning on September 8,
 17 2025. ECF No. 108.

18 **B. 2025 Events**

19 **1. Dispositive Motions and Padhye’s “Motion for Sanctions”**

20 On February 24, 2025, this case was transferred to the undersigned judge, though all
 21 “briefing schedules for motions remain[ed] unchanged.” ECF No. 112. On February 25, 2025,
 22 Plaintiff and Defendant Mr. Brown stipulated to Mr. Brown’s dismissal, leaving Mr. Padhye as the
 23 sole Defendant. ECF No. 113, 114. The Court held a CMC on May 21, 2025, and issued an
 24 updated schedule continuing the jury trial by one week to September 15, 2025. ECF No. 118.

25 At the CMC, Padhye’s counsel, Richard Poulson, asked the Court to reopen the
 26 dispositive motion deadline that had closed a month earlier. The Court denied that request.
 27 Padhye then filed a written motion asking this Court to extend the dispositive motion deadline,
 28 which the Court again denied because the motion lacked good cause. ECF No. 119. Padhye

1 immediately filed a motion for leave to file a motion for reconsideration, that also lacked good
 2 cause. ECF No. 121. On May 27, 2025, the Court denied the motion for reconsideration and
 3 admonished counsel to comply with Court orders (including the standing order for civil cases), to
 4 file all requests on the court docket, and to not to e-mail the Court directly. ECF Nos. 121, 123.
 5 Two days later, on May 29, 2025, Padhye again filed a motion for leave to file a motion for
 6 reconsideration, offering the same facts and argument contained in the three previous requests
 7 rejected by the Court. ECF No. 124. The Court denied Defendant's motion. ECF No. 125.

8 On June 9, 2025, Padhye took a different tack. He filed what he titled a "Motion for
 9 Sanctions under 28 U.S.C. § 1927," requesting sanctions against Plaintiff's current attorney
 10 *personally*, for unreasonably and vexatiously multiplying court proceedings. ECF No. 126. The
 11 motion was an end-run around the Court's orders because substantively the motion was one for
 12 summary judgment against NSP, with an added argument that NSP's claims were so clearly
 13 lacking that, among other alleged transgressions, the decision of Plaintiff's counsel to file the
 14 complaint was a violation of Rule 11 of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 11.
 15 *Id.* at 9-10 (citing first to Rule 11 and then to § 1927).

16 2. NSP's Motion to Withdraw as Counsel

17 Meanwhile, on June 25, 2025, Dhillon Law Group Inc. ("DLG") provided notice to NSP
 18 that it intended to withdraw as counsel in the instant action because: "1) there has been a breach of
 19 th[e] parties' engagement agreement; 2) Plaintiff's conduct renders it unreasonably difficult for
 20 DLG to carry out representation effectively; and 3) there has been an irreconcilable breakdown of
 21 the attorney-client relationship." ECF No. 133. DLG formally moved to withdraw on July 10,
 22 2025. *Id.* Because: trial was imminent, the Court had been informed more than a year earlier that
 23 NSP was no longer in business, and NSP could not prosecute its action without counsel, on July
 24 14, 2025, the Court granted expedited briefing on the motion, and ordered Mr. Sanjiv Dhawan,
 25 NSP's managing member, or another individual with the ability to act on behalf of Plaintiff, to
 26 attend the hearing set for July 29, 2025. ECF No. 136. The Court directed NSP to "diligently
 27 work to obtain new counsel" prior to the hearing and indicated that, if necessary, it would consider
 28

1 a brief continuance of the trial date once new counsel had been identified. *Id.* The Court
2 explicitly noted that “an entity [like NSP] requires counsel to litigate its complaint.” *Id.*

3 As scheduled, on July 29, 2025, at 9:30 a.m., the Court held an in-person hearing on NSP’s
4 counsel’s motion to withdraw. ECF No. 138. Prior to ruling on what appeared to be a meritorious
5 request from counsel, the Court intended to ask Mr. Dhawan about his efforts to retain new
6 counsel and NSP’s ability to proceed to trial approximately six weeks later, on September 15,
7 2025. Though counsel from DLG (Mr. Nitoj Singh) was in attendance, Mr. Dhawan, a California-
8 barred attorney, and the principal member of NSP, failed to appear, in violation of the Court’s
9 order. Because, as the Court learned, the now-defunct NSP has no other members or agents, no
10 client representative appeared at the hearing making it impossible for the Court to assess how, if at
11 all, the case could proceed. Further, because NSP also failed to retain new counsel, if the Court
12 permitted DLG to withdraw at the hearing, NSP would be hamstrung—having no ability to
13 prosecute its case right before trial.¹

14 Mr. Singh reported that shortly before the hearing, he received a call from Mr. Dhawan
15 stating that he was ill and would not attend. The Court took several breaks so that Mr. Singh
16 could talk further with Mr. Dhawan on the phone. The Court sought to assess whether in fact Mr.
17 Dhawan was experiencing a medical emergency that would reasonably prevent him from attending
18 the hearing and would necessitate a continuance. Following those calls, Mr. Singh reported to the
19 Court that Mr. Dhawan acknowledged he had not been in an accident and was not hospitalized,
20 “but he plans to be soon.” July 29, 2025 Rough Tr. at 4.² Instead, Mr. Dhawan was at home due
21 to “heart issues, cardiac issues” that he’d “been having . . . for the past few months.” *Id.* The
22 Court then asked Mr. Dhawan to attend by Zoom, but Mr. Dhawan claimed to have difficulty
23 accessing Zoom. The Court notes that Zoom was working, as evidenced by the presence of the
24 remote court reporter who was transcribing the proceeding via Zoom. As it was clear Mr. Dhawan

25
26 ¹ It appears even by that point that NSP was failing to prosecute its case, failing to disclose experts
27 by the deadline, *see* July 29, 2025 Rough Tr. at 14, despite having retained at least two experts.
28 *See* ECF No. 133.

² The Court cites to the rough transcript because, as of the date of this Order, the official transcript
is not yet available.

1 was having no difficulty talking with Mr. Singh on the phone, the Court told Mr. Dhawan (through
2 counsel) to call into the hearing proceedings and provided the courtroom phone number. Mr.
3 Dhawan agreed. The Court and all hearing participants then waited for Mr. Dhawan to call. He
4 failed to do so. At approximately 10:05 a.m., the Court proceeded with the hearing without Mr.
5 Dhawan.

6 During the hearing the Court orally issued an Order to Show Cause (“OSC”) why
7 sanctions, including dismissal, should not be imposed for Mr. Dhawan’s failure to appear on
8 behalf of NSP. Mr. Poulson, on behalf of Padhye, incorrectly asserted that even if the Court
9 dismissed NSP’s claims at the OSC, Padhye still had remaining counterclaims that would need to
10 be resolved. Although the Court was unaware of any pending counterclaims, following the
11 hearing the Court reviewed the docket and confirmed that Padhye did not file counterclaims
12 against NSP. The Court set August 19, 2025, as the hearing date for the OSC, as well as Padhye’s
13 “Motion for Sanctions under 28 U.S.C. § 1927.”

14 The following day, the Court issued a written order to show cause “why the Court should
15 not impose monetary or other sanctions, up to and including dismissal of this action, against [Mr.
16 Dhawan] personally, and the Plaintiff, for failing to appear at the hearing in violation of the
17 Court’s July 14 Order.” ECF No. 139. The Court required any opposition to the order be filed by
18 August 5, 2025 and include:

- 19 1. A declaration from Mr. Dhawan, signed under penalty of perjury, explaining the
20 alleged medical emergency that prohibited his attendance in Court on July 29,
21 2025;
- 22 2. A letter or other documentation from a medical provider confirming the medical
23 issues underlying Mr. Dhawan’s medical emergency, including when he was first
24 treated for the alleged medical issue;
- 25 3. Records demonstrating when and how Mr. Dhawan became aware of the issues
26 underlying his medical emergency on July 29, 2025; and
- 27 4. Records demonstrating that Mr. Dhawan received treatment for his medical
28 emergency on or about July 29, 2025.

1 *Id.*

2 Mr. Dhawan timely filed a declaration opposing the order. ECF No. 141. He asserted that
3 he has had hypertension for 10 years, and that he was experiencing symptoms on the morning of
4 July 29, 2025. *Id.* ¶ 3, 9 (“I exhibited pronounced symptoms of severe headache, dizziness, and
5 difficulty in walking despite taking my prescribed medications.”). According to Mr. Dhawan, the
6 “added stress that morning could have had serious consequences” for him that could only be
7 avoided by resting until his symptoms resolved. *Id.* ¶¶ 10-13. Mr. Dhawan contends that “[o]n
8 the morning of July 29, 2025, [he] attempted to call in to the Court, and appear by Zoom, as
9 instructed by the Court, but could not due to technical issues with the Zoom application on [his]
10 laptop computer.” *Id.* ¶ 16.

11 Mr. Dhawan’s response was inadequate and lacked veracity. First, hypertension, also
12 known as high blood pressure, differs from what Mr. Dhawan claimed at the time kept him from
13 the July 29, 2025 hearing, namely “cardiac issues” that he’d “been having . . . for the past few
14 months.” July 29, 2025 Rough Tr. at 4. Moreover, the Court ordered Mr. Dhawan to provide a
15 letter or other documentation from his medical provider confirming his medical emergency and
16 other records related to his illness. Mr. Dhawan did not attach any documents to his declaration.
17 He also provided no explanation as to why he was unable, at a minimum, to call the Court on July
18 29, 2025, to participate in the hearing. Mr. Dhawan again failed to abide by the Court’s order, and
19 he provided no credible explanation for that failure.

20 **3. Hearing on The Motion to Withdraw and Padhye’s “Motion for** 21 **Sanctions”**

22 The Court held the OSC hearing on August 19, 2025. Counsel appeared for both parties,
23 and Mr. Dhawan was in attendance.

24 Before taking up the OSC, the Court heard argument on Defendant’s motion for sanctions
25 under 28 U.S.C. § 1927. At the outset, the Court noted that the sanctions motion was “essentially
26 an untimely summary [judgment] motion.” August 19, 2025 Rough Tr. at 2. Padhye’s sanctions
27 section of the brief, made pursuant to Rule 11 and § 1927, was appended to its argument on the
28 merits and merely asserted that because Padhye viewed the case as unmeritorious, sanctions were

warranted. *Id.* at 2-3. Mr. Poulson did not deny that his motion was based on the merits. *See id.* at 3 (“I understand there are some similarit[ies] regarding the merits of [the motion,] but the merits that show that the case should be foreclosed by summary judgment also prove that it should not have been brought in the first place.”). Mr. Poulson also denied bringing his motion under Rule 11, despite the Rule being the second cite³ in the brief’s discussion section. *See* ECF No. 126 at 9-10. As the Court stated on the record, Padhye’s motion “was untimely, it was [filed] after the court told you [that] you could not file a motion for summary judgment, and [it was] framed as a motion for sanctions[,] which is inappropriate” in light of the record in the case. August 19, 2025 Rough Tr. at 7. The Court denied Padhye’s motion.

The Court then took up the OSC. As noted more fully on the record, the Court found that Mr. Dhawan violated Court orders on two occasions: first by failing to appear at the July 29, 2025 hearing, and then by failing to provide credible testimony and failing to attach any medical documentation to his declaration in opposition to the OSC. As the Court stated at the hearing, Mr. Dhawan’s declaration failed to “address virtually any of the things that the Court required that Mr. Dhawan provide” in his opposition to the OSC. When the Court asked Plaintiff’s counsel to respond, Mr. Singh stated the following:

my understanding is the major component that was lacking was medical records and a statement or a letter from my client’s physician. My client -- my understanding -- tried to obtain that information, but the physician was traveling and would need to set an appointment with Mr. Dhawan before he could provide the requisite information, and due to timing of the situation he wasn’t able to provide it.

Id. at 8. When the Court asked Mr. Singh to confirm that Mr. Dhawan had not received medical attention “immediately before or after the hearing,” Mr. Singh confirmed that was his understanding. *Id.* Though not the fault of Mr. Singh, who was limited by what his client told him, this additional information reinforced that Mr. Dhawan’s failure to appear on July 29, 2025, was unjustified and in direct contravention to the Court’s order.

³ The first cite was to *Christian v. Mattel, Inc.*, 286 F.3d 1118 (9th Cir. 2002) (which Mr. Poulson mistitled as *Christianson* in his brief). That case is explicitly about the “scope of Rule 11.” *Id.* at 1118.

The Court found that Mr. Dhawan lacked candor when he failed to appear in person, failed to join the July 29, 2025 hearing by Zoom, and failed to call into the Court. The Court found that Mr. Dhawan again lacked candor when he attempted to explain his behavior in his declaration, which differed from the representations that he made at the hearing. The Court concluded it could not trust Mr. Dhawan to be truthful, a serious concern for someone who is a current member of the California bar. *See* Rough Tr. at 8.⁴ The Court found, on the record, that Mr. Dhawan’s failure to appear was not in good faith, and that he twice failed to comply with the Court’s orders. *Id.* at 9.

Further, as of the date of the OSC, DLG’s motion to withdraw had been pending for six weeks, and Mr. Dhawan knew of DLG’s intent to withdraw for at least two additional weeks preceding that motion. Mr. Dhawan had apparently been unable or unwilling to engage new counsel to replace DLG, even though (pursuant to the Court’s standing order for civil cases) all the pre-trial documents were due the following week, and the jury trial was set to begin in less than a month. Yet without counsel, even if it was interested in doing so, the defunct NSP could not proceed in court. Given the totality of the circumstances, the Court dismissed NSP’s case without prejudice.

II. DISCUSSION

The Court has inherent power to sanction parties or their attorneys for improper conduct. *Chambers v. Nasco, Inc.*, 501 U.S. 32, 43–46 (1991); *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 766 (1980); *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001). This includes the “inherent power to dismiss an action when a party has willfully deceived the court and engaged in conduct utterly inconsistent with the orderly administration of justice.” *Anheuser–Busch, Inc. v. Natural Beverage Distrib.*, 69 F.3d 337, 348 (9th Cir. 1995) (quoting *Wyle v. R.J. Reynolds Indus., Inc.*, 709 F.2d 585, 589 (9th Cir. 1983)); *see Combs v. Rockwell Intern. Corp.*, 927 F.2d 486, 488 (9th Cir. 1991) (“Dismissal is an appropriate sanction for falsifying deposition.”). Because dismissal is

⁴ The Court spoke directly to Mr. Dhawan during the hearing: “I’m not going to ask you to provide testimony. I’m not going to put you under oath because frankly I have concerns about the veracity of the declaration that you filed [and] have great concerns about the fact that you failed to even make a phone call into the court when you claim you couldn’t appear at the last hearing.” *See* August 19, 2025 Rough Tr. at 8.

1 such a harsh penalty, courts reserve such use for extreme circumstances. *Wyle*, 709 F.3d at 589.
 2 “It is well settled that dismissal is warranted where . . . a party has engaged deliberately in
 3 deceptive practices that undermine the integrity of judicial proceedings . . .” *Anheuser–Busch,*
 4 *Inc.*, 69 F.3d at 348.

5 In determining whether to dismiss an action for failure to comply with a court order, the
 6 Court must weigh “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s
 7 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
 8 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” *In*
 9 *re Phenylpropanolamine (PPA) Products Liability Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006)
 10 (internal quotations and citations omitted). These factors guide a court in deciding what to do, but
 11 they are not conditions that must be met for a court to take action. *Id.*

12 Under the factors, dismissal is the proper sanction in this case. First, an expeditious
 13 resolution of this two-year old case with an unrepresented, defunct plaintiff is nearly impossible.
 14 Mr. Dhawan, the principal and only member of NSP, failed to appear at the hearing on the motion
 15 to withdraw in violation of the Court’s order. Further, Mr. Dhawan has not demonstrated that he
 16 has made any attempt to find substitute counsel to represent NSP even though trial is scheduled to
 17 begin in less than a month, and the Court as well as DLG advised Mr. Dhawan the NSP must have
 18 counsel to proceed.⁵ The Court finds no other reasonable way to interpret Mr. Dhawan’s actions
 19 then to conclude that NSP is no longer willing or able to prosecute this case.

20 As to factor two, NSP’s failure to comply with court orders plainly interferes with the
 21 Court’s docket. The instant case was set for a jury trial to begin on September 15, 2025. The
 22 Court was prepared to begin review of pre-trial materials next week. Even assuming NSP could
 23 get new counsel (and NSP has offered no information suggesting that it is making any such effort),
 24 that counsel would not reasonably be able to proceed with pretrial and trial in the coming weeks.
 25 A Court’s available dates for trial are limited and are typically (as was the case here) scheduled
 26

27 _____
 28 ⁵ DLG’s motion to withdraw stated that counsel advised Mr. Dhawan “that if Plaintiff does not
 retain counsel[,] [NSP] would be at risk of default in this action.” ECF No. 133.

1 long in advance. It is now too late to substitute another trial into the September 15, 2025 slot,
2 which interferes both with the Court's docket and the Court's ability to efficiently and justly
3 adjudicate all matters before it.

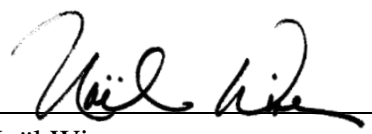
4 The third factor, prejudice to Defendant, also favors dismissal as sanction. If anything,
5 Defendant is the beneficiary of Plaintiff's missteps. The Court denied Defendant's sanctions
6 motion, and Defendant has no pending motions or counterclaims. Dismissing this action saves
7 Padhye from having to defend against allegations related to his business practices, including the
8 time and expense of trial. Finally, if the case were to continue, the Court would address Padhye's
9 imprudent and untimely decision to bring a motion for summary judgment (styled as a motion for
10 sanctions) despite explicit and repeated Court orders stating he was not permitted to do so. In
11 short, Padhye is not prejudiced by the sanction of dismissal.

12 Public policy favors disposition on the merits. Yet, in this instance, there is no reasonable
13 path to a disposition on the merits. NSP is without counsel and cannot proceed. The Court has no
14 information that Mr. Dhawan has any intention of seeking counsel for NSP, furthering NSP's
15 claims, or complying with court orders. With a week before pre-trial materials are due, the case is
16 at a standstill.

17 Finally, the Court has attempted less drastic sanctions by issuing an OSC warning Mr.
18 Dhawan that his failure to adequately respond to the OSC could result in dismissal of this action.
19 As a member of the California bar, Mr. Dhawan should have fully grasped the gravity of that
20 warning. Nevertheless, he again failed to comply with the Court's order, and provided no credible
21 reason for that failure. Further, the Court has imposed the lesser sanction of dismissal without
22 prejudice. Should NSP have the interest (and necessary counsel) to refile its claims, it may do so
23 in a new complaint.

24 **IT IS SO ORDERED.**

25 Dated: August 22, 2025

26 
27 Noël Wise
28 United States District Judge